THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO. 836 OF 2005

DATE OF ORDER: 29-08-2005.

BETWEEN:

Palla Poll Naidu and others … petitioners

And

Government of Andhra Pradesh and others….respondents

THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO. 836 OF 2005

O R D E R :

1. This writ petition is filed by the petitioners assailing the action of the Sub-Registrar, Town Area, Visakhapatnam-3rd respondent in not receiving the documents presented for registration with regard to Survey No.346/2 to 346/7 and 346/9 situated at Yeguva Thimmapuram Village, Madhuravada, Visakhapatnam.

2. The petitioners are the owners of the land admeasuring Ac.32-00 cents in the above stated survey numbers. It appears patta has been granted to them in respect of Ac.19-65 cents while negativing their request for the rest of the land. Assailing the order of the Settlement Officer, appeals have been filed by the petitioners herein as well as Mandal Revenue Officer and the said appeals are stated to be pending. It further reveals that the appellate authority granted stay of the operation of the order passed by the Settlement Officer. The petitioners not being able to put up with the litigation intended to dispose of the same and accordingly they secured purchasers and presented the sale documents to the Sub-Registrar (Rural), Visakhapatnam for registration. When the Sub-Registrar (Rural), Visakhapatnam refused to receive the documents, this writ petition has been filed.

3. It is stated in the counter of 3rd respondent that the petitioners have no title to the property and therefore his action in not receiving the documents is justified. I deem it appropriate to refer para (3) of the counter and it is thus:

" 3. The petitioners have not stated the state of events before the Settlement Officer after the matter was remanded by the Commissioner of Appeals on 26.3.2004. The Settlement Officer by his order dt.17.9.2004 allowed the claim of the petitioners for grant of patta to an extent of Acs.19-66 cents in Sy.No.346/2 rejecting the claim to the extent of Acs.1.35 cents. Against the grant of patta to an extent of Acs.19-65 cents, Mandal Revenue Officer, Visakhapatnam (Rural) appears to have filed an appeal

before the Director of Settlements and the Director of Settlements on 24.9.2004 admitted the revision and suspended the order of the Joint collector/Settlement Officer dt.17.8.2004. Thus, the effect of the order of the Director of Settlements would only mean that the decision of the Joint Collector to grant patta was suspended and as such the petitioners could not obtain the patta even to an extent of 19-65 cents. Though the petitioners have filed the copies of the proceedings, they have not stated in their affidavit about the orders of the Director of Settlements, A.P., Hyderabad."

4. Heard learned counsel for the petitioners, learned Government Pleader for Revenue appearing for respondents 1 to 3.

5. Learned counsel for the petitioners submits that the action of 3rd respondent in not receiving the documents submitted for registration is not sustainable and therefore the said action is to be declared as illegal and arbitrary. Whereas the learned Government Pleader for Revenue appearing for respondents submits that the draft notification as required under section 22(A) of the Indian Registration Act has been sent and therefore the request of the petitioners cannot be considered and hence the direction sought for by the petitioners cannot be given.

6. It is well settled that unless a notification under section 22(A)of the Indian Registration Act is given there is no justification for the Sub-Registrar in refusing to receive the documents and register the same. The material brought on record disclose that the right of the petitioners has been declared to an extent of Ac.19-65 cents in the above referred survey numbers. So far as that extent is concerned there cannot be any justification for 3rd respondent in not receiving the documents for registration.

7. Accordingly, the writ petition is disposed of directing 3rd respondent to receive the documents submitted by the petitioners in respect of Ac.19-65 cents in survey numbers stated above and register the same, if the documents are otherwise validly presented in accordance with law. Any sale transaction pending the appeal before

the appellate authority would be subject to the result of the appeal. No costs.

Dated: 29-07-2005. (B.Seshasayana Reddy,J)

tnb

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Dated: 29-07-2005.